

In re ) Fair Hearing No. 16,601  
 )  
Appeal of )

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition and Health Access (PATH) (formerly the Department of Social Welfare) finding that she is ineligible for the VHAP program.

1. The petitioner is the parent of three children all of whom live with her. She works and has health insurance for two of her children, the youngest of whom is twelve. Her oldest child, who is nineteen, was cut off of her health insurance because he is not a full-time student. The petitioner has been offered COBRA insurance for him but cannot afford the \$250 per month premium. She applied for VHAP benefits for her eldest child in late June of 2000.

2. The Department considered the petitioner and all of her children as one VHAP group because they are all living in the same household. The petitioner's gross earned income of \$1,973.70 per month was counted in determining VHAP

eligibility, as well as monthly child support of \$482.28. From the earned income, the Department allowed a work expense deduction of \$90. From the child support income, the Department allowed a \$50 disregard. The result was a countable income of \$2,315.98. The Department determined that the countable income was in excess of the maximum income for a four-person household, \$2,132.

3. On July 17, 2000, the petitioner was mailed a notice that she had personally been denied benefits because she has other insurance coverage and that her nineteen year old son had been denied because the family's household income exceeds department standards for a household of his size.

4. The petitioner does not dispute the finding of ineligibility for herself. She does ask that her nineteen-year-old son be considered as a separate household for purposes of eligibility. He needs health care for a vision problem and she is concerned that he has no general coverage if he should have an accident. She expects that her son will be eligible for health benefits under her health insurance when he becomes a full-time student this fall.

ORDER

The decision of the Department is affirmed.

REASONS

The VHAP regulations require that an individual who is part of a VHAP group can only be eligible if the countable income of the group is under the applicable income test for its size. W.A.M. 4001.8. The regulation further requires that the siblings who are under age 21 and the parents of a VHAP applicant be included in the applicant's VHAP group if they are all living in the same home. W.A.M. 4001.8(a) (c) and (d). Under this regulation, the nineteen-year-old's younger siblings and his mother must be included in the VHAP group because they are all living in the same home. As such, all of their income is counted in determining the nineteen-year-old's eligibility.

The facts show that the Department counted both the mother's earned income and the child support payable to all of the children. The regulations specifically require the inclusion of both of these types of income in calculating eligibility. W.A.M. 4001.81(b) and (c). The regulations also allow a \$90 deduction from earned income as a "standard employment expense" and an exclusion of the first \$50 in child support payments made by the noncustodial parent. W.A.M. 4001.81(e) and 4001.82(23). The Department gave the

petitioner both of these deductions. Other potential deductions for self-employment business expenses and child care expenses are not applicable here.<sup>1</sup>

The countable income, after deduction, for this VHAP group is \$2,315.98 which is over the maximum for a four person household of \$2,132 per month. P-2420(B)(6). The Department cannot grant benefits to an individual in a group that is over-income. W.A.M. 4001.8. As the Department has correctly applied its regulations in the determination of the petitioner's and her son's eligibility for VHAP benefits, the decision denying eligibility to the group must be upheld.

# # #

---

<sup>1</sup>The petitioner was questioned at the hearing as to whether she might have facts which support further deductions but she did not fit any of the other categories.